

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DAVID VILLARREAL,

Plaintiff,

Case Number: 2:17-CV-12469
HON. VICTORIA A. ROBERTS

v.

BILL J. PIGOTT, ET AL.,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION FOR
CERTIFICATE OF APPEALABILITY AND APPLICATION
TO PROCEED WITHOUT PREPAYMENT OF FEES ON APPEAL**

Plaintiff David Villarreal, a Michigan state prisoner, filed a complaint under 42 U.S.C. § 1983, challenging the revocation of his parole. On October 23, 2017, the Court dismissed the complaint without prejudice. Now before the Court are Plaintiff's Motion for Certificate of Appealability and Application for Leave to Proceed Without Prepayment of Fees on Appeal.

Under the Antiterrorism and Effective Death Penalty Act of 1996, a certificate of appealability is required to appeal a judgment in a habeas corpus action where the detention complained of arises out of a state court process. 28 U.S.C. § 2253(c)(1). A certificate of appealability is not required to appeal from an order denying relief in a § 1983 action. *Johnson v. CCA-Northeast Ohio Correctional Center*, 21 Fed. App'x 330, 332 (6th Cir. 2001). Therefore, the Court shall deny the Motion for Certificate of

Appealability as unnecessary.

“An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). For the same reasons the Court concluded that the complaint should be summarily dismissed, the Court concludes that an appeal would not be taken in good faith.

The Court DENIES Plaintiff’s Motion for Certificate of Appealability (ECF No. 12) and Application to Proceed Without Prepayment of Fees on Appeal (ECF No. 15).

SO ORDERED.

S/Victoria A. Roberts
VICTORIA A. ROBERTS
UNITED STATES DISTRICT JUDGE

DATED: May 17, 2018